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Attorney for Plaintiffs
MICHAEL MOYNIHAN

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

MICHAEL MOYNIHAN, SABINE O'
 BALDEN; MICHAEL KIRK; SCOTT
 STEIN; COREY YEH; TIMOTHY
 TIERNAN; MIKE DAY; ROBERT
 MILLER; STEPHEN SILVESTRICK;
 JAMES KUCHARSKY; RICHARD
 GERING; JONATHAN BAXTER; JASON
 WATROUS; RYAN TOBY; JOHN
 HARRINGTON; ANNETTE
 HOBRUCKER-PFEIFER; ARAM
 MARAVILLAS; DAVID SMILER; JACK
 TAYLOR; NATE SZUTU; MIKE RUBIN;
 ROBERT MILICI; ERIK BROWN; PAUL
 PIANCONE; SEAN BONETTI; MICHAEL
 FUCCIOLO; DAVID NEWMAN; SCOTT
 SANDINE; JAMES MACDONELL;
 STEVEN ARDIGO; WESLEY LEMBERG;
 DOMINIC SHANLEY; ROBERT KISHI;
 ALVIN LAU; RAYMOND CHAVEZ; G.D.
 MCFARLAND; ROCK L. PLICHCIK;
 JAMES FERRANTE; STUART BEACH;
 MARTIN SPALKA; KEITH PHILLIPS;
 NICOLETTE DIVECCHIO; LORI
 CLETHEN; CHASE WILSON; GUY
 GOODWIN; MATT LAME; STEVE
 WOMBACHER; CRAIG JOHNSON; KJEIL

E-Filing

FILED
 NOV 14 2006
 RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

Case No. **06-7071**
COMPLAINT

VRV

ORIGINAL

HARSHMAN; FRED SALAN; DANIEL)
 FLEMING; ELISABETH JENSEN; JAMES)
 BEEM; JARED KUNKEL; GINA TROIANI;))
 KRISTINA NELSON; ROBERT JONES II;)
 CHRISTOPHER OLSEN; JEANINE)
 NICHOLSON; HELEN HORVATH;)
 BRENT MARKS; CARLTON BISCEVIC;)
 And Others Similarly Situated,)

Plaintiffs,)

vs.)

CITY AND COUNTY OF SAN)
 FRANCISCO, CALIFORNIA, A Municipal)
 Corporation,)

Defendant.)

Plaintiffs, by their attorneys, Lackie and Dammeier APC, complaining of the Defendant, respectfully allege as follows:

1. Plaintiffs bring this action to recover unpaid overtime compensation and other relief under the provisions of the Fair Labor Standards Act of 1938, as amended [29 U.S.C. §§201-219; and for a declaratory judgment under 29 U.S.C. §§2201 and 2202].

2. It is anticipated that approximately 120 unnamed plaintiffs will join the case at which time each plaintiff will file a consent to join with the Court. These other plaintiffs are other employees similarly situated and employed by Defendant during the three years prior to the filing of this case.

3. Jurisdiction of this action is conferred upon this Court by 29 U.S.C. §216(b) and by 29 U.S.C. §1337.

4. Venue of this action is established in this Court by 29 U.S.C. §216(b). Venue is also established pursuant to 28 U.S.C. §1391(b).

1 5. Plaintiffs are each employees of the Defendant CITY AND COUNTY
2 OF SAN FRANCISCO, CALIFORNIA, located in the Northern District of
3 California.

4 6. The Defendant in this action is the CITY AND COUNTY OF SAN
5 FRANCISCO, CALIFORNIA, which is within the City and County of San
6 Francisco in the Northern District of California.

7 7. The Plaintiffs are each employees who were at all relevant times
8 employed in an enterprise engaged in commerce or in the production of goods for
9 commerce, as defined by 29 U.S.C. § 203(s). More specifically, the Plaintiffs are
10 or were “paramedics” employed by the CITY AND COUNTY OF SAN
11 FRANCISCO.

12 8. At all times material herein, the Plaintiffs have been entitled to the
13 rights, protections and benefits provided under the FLSA.

14 9. The Defendant CITY AND COUNTY OF SAN FRANCISCO,
15 CALIFORNIA, is an employer as defined by 29 U.S.C. § 203(d) and a public
16 agency within 29 U.S.C. § 203(x). Upon information and belief, the Defendant at
17 all relevant times has been aware of the provisions of the FLSA.

18 10. The Defendant is an enterprise, as defined by 29 U.S.C. §203(r).

19 11. Employees covered under the Act are entitled to overtime
20 compensation at the rate of one and one-half times their regular rate of pay for all
21 hours worked in excess of the maximum hours provided in 29 U.S.C. §207.

22 12. The Plaintiffs each have, during the applicable statutory time periods,
23 worked in excess of the statutory maximum number of hours provided for in 29
24 U.S.C. §207, without receiving compensation for such excess hours at a rate of one
25 and one-half times the regular rate at which they were employed. Specifically, the
26 Defendant has paid and continues to pay the Plaintiffs based on their erroneous
27 classification of the Plaintiffs as employees engaged in fire protection activities
28 under 29 U.S.C. §207(k) and 29 C.F.R. Part 553.

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1 (c) judgment against the Defendant awarding each Plaintiff monetary
2 damages in the form of back pay compensation, liquidated damages equal to
3 his/her unpaid compensation, plus pre- and post-judgment interest;

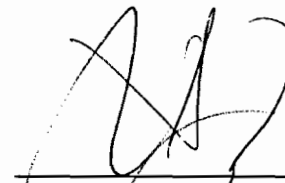
4 (d) reasonable attorney's fees; and

5 (e) the costs and disbursements of this action together with such and
6 further relief as the Court deems proper.

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8 Dated: November 13, 2006

Respectfully submitted,

9 LACKIE & DAMMEIER APC

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13 Michael A. Morguess
14 Attorneys for Plaintiffs
15 MICHAEL MOYNIHAN, ET AL.
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